

REMARKS

The applicant has carefully considered the Office Action dated November 23, 2007, and the references cite therein. By way of this Response, claims 1 and 65 have been amended, claims 72-74 are newly added, and claims 12 and 13 have been canceled without prejudice to further prosecution. The examiner noted that claims 2, 7, 66, 68 and 69 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. The applicant thanks the examiner for noting this allowable subject matter. However, in view of the amendments and remarks herein, it is respectfully submitted that all pending claims 1, 2, 4-11, 15, and 65-74 are now in condition for allowance, and favorable reconsideration is respectfully requested.

The 35 U.S.C. § 112 Objections

The examiner rejected independent claims 1 and 65, and respective dependent claims 2, 4-13, 15 and 66-71 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner asserted that it is unclear in claims 1 and 65 as to whether or not the drawer is to be claimed in combination with the interlock, pointing to the language "wherein said engagement member further comprises a projection that communicates with a slot that moves with said drawer". Both independent claims 1 and 65 have been amended to eliminate the requirement that the slot "moves with said drawer." Accordingly, applicant respectfully submits that the rejection of the claims based on 35 U.S.C. 112, second paragraph, should be withdrawn.

The 35 U.S.C. § 102 Rejections

The examiner rejected claims 1, 4-6, 8-13 and 15 under 35 U.S.C. 102(b) as being anticipated by Budde (German reference 44 16 768), and rejected claims 1, 4-6, 8-13, 15, 65, 67, 70 and 71 under 35 U.S.C. 102(b) as being anticipated by Mitchell (U.S. 5,176,436).

Although Applicant does not agree with the examiner's rejections, Applicant's amendments to claims 1 and 65, and newly added claims 72-74 introduce further distinguishing features to overcome the rejections and to further distinguish over Budde and Mitchell, as discussed herein.

With respect to the rejection of claims 1, 4-6, 8-13 and 15 as anticipated by Budde, the examiner refers to Budde as having structure "wherein the engagement member comprises a projection (31) that communicates with a slot (30) that moves with said drawer". In support of this, the examiner asserts, "when the drawer with the projection moves, the lever with the slot (30) moves/rotates via engagement of the projection within the slot." Also, presumably with respect to now pending claims 10-11, the examiner states, "The lever would inherently be adapted to translate a first force (via linear movement of the drawer) exerted on the drawer in the first direction into a second force (via rotational movement of the lever) on the flexible member which is less than the first force (the linear movement of the drawer would inherently be greater than the rotational movement of the lever)."

In claim 1, as amended herein, the limitation requiring "an engagement member" now requires "a rotatable engagement member", and the limitation "wherein said engagement member further comprises a projection that communicates with a slot that

moves with said drawer" has been removed. These amendments distinguish further over Budde because, as acknowledged by the examiner, the engagement member in Budde would be the projection or pin (31) on the drawer. The projection in Budde accordingly is not "a rotatable engagement member", and therefore Budde cannot anticipate amended independent claim 1. Nor would use of a rotatable engagement lever be obvious in view of the projection or pin used in Budde.

In addition, Applicant believes the examiner has erroneously attributed so-called inherent features to Budde. For instance, as noted above, the examiner asserts that "The lever would inherently be adapted to translate a first force (via linear movement of the drawer) exerted on the drawer in the first direction into a second force (via rotational movement of the lever) on the flexible member *which is less than the first force (the linear movement of the drawer would inherently be greater than the rotational movement of the lever.)*" However, these statements are not correct because the movements in Budde of the projection or pin (31) and of the rotatable lever (24) (with respect to movement of the lever (24) into contact with the flexible member (19)), are roughly both in the same direction. Thus, the magnitude of the movements may not be that different. More importantly, the linear movement of the drawer being inherently greater than the rotational movement of the lever would actually cause an opposite result from that which is stated by the examiner. Namely, the lever, with its smaller relative movement, would exert a greater force on the flexible member than the force being exerted on the drawer, with its greater movement. The "work" must be the same with respect to the force times the distance traveled, meaning the greater travel of the drawer must be at a lower force to

balance against the lesser movement of the lever with its greater force exerted on the flexible member.

For the above reasons, independent claim 1 is patentable and is not anticipated or rendered obvious by Budde. Given that claims 2, 4-12 and 15 all depend directly or indirectly from claim 1, and add further limitations thereto, these dependent claims also are patentable over Budde.

Turning to the rejection of claims 1, 4-6, 8-13, 15, 65, 67, 70 and 71 as anticipated by Mitchell, the examiner refers to Mitchell as having structure "Wherein the projection communicates with slot (33) that moves with said drawer". In support of this, the examiner asserts, "(i.e. when the drawer moves, the cam 30 moves via 32, 31 which then moves the actuating member 26 with the slot 30 via 27)." The examiner further states, "The lever would inherently be adapted to translate a first force (via linear movement of the drawer) exerted on the drawer in the first direction into a second force (via rotational movement of the lever) on the flexible member which is less than the first force (the linear movement force of the drawer would inherently be greater than the rotational movement force of the lever) and the actuating member is inherently capable of moving faster with respect to the elongated flexible member than the driving surface of the cam member moves when the drawer is initially being moved toward an open position."

The above-discussed amendments to claim 1 also distinguish over Mitchell. For instance, the required "rotatable engagement member positioned to cause said rotatable lever to rotate toward said first position when said drawer is initially moved from the closed position in the first direction" is not present in Mitchell. As stated by the

examiner, Mitchell uses a rotatable lever/cam (30), but that acts on an actuating member that moves linearly on its slot (33). Thus, there is no rotatable engagement member that is positioned to cause a rotatable lever to rotate. Nor would use of a rotatable engagement lever and rotatable lever be obvious in view of the projection or projections and linearly moving actuating member used in Mitchell.

For the above reasons, independent claim 1 is patentable over Mitchell and is not anticipated or rendered obvious by Mitchell. Given that claims 2, 4-11 and 15 all depend directly or indirectly from claim 1, and add further limitations thereto, these dependent claims also are patentable over Mitchell.

With respect to claim 65, as amended herein, the limitation requiring "a cam member having a driving surface, and having a projection that communicates with a slot that *moves with said drawer*" is amended to instead state "a cam member having a driving surface, and having a projection that communicates with a slot that *is attached to a drawer slide member*". Also, claim 65 is amended to remove the last clause, namely "wherein the actuating member is adapted to move with respect to the elongated, flexible member faster than the driving surface moves when the drawer is initially being moved toward an open position", which is asserted separately as new dependent claim 72. These amendments distinguish further over Mitchell because Mitchell does not have a slot that is attached to a drawer slide member and a cam member that has a driving surface and a projection that communicates with such a slot that is attached to a drawer slide member. Therefore, Mitchell cannot anticipate amended independent claim 65.

In addition, with respect to new claim 72 Applicant believes the examiner also has erroneously attributed so-called inherent features to Mitchell. For instance, as noted

above, the examiner asserts that "The lever would inherently be adapted to translate a first force (via linear movement of the drawer) exerted on the drawer in the first direction into a second force (via rotational movement of the lever) on the flexible member *which is less than the first force (the linear movement force of the drawer would inherently be greater than the rotational movement force of the lever)* and the actuating member is *inherently capable of moving faster with respect to the elongated flexible member than the driving surface of the cam member moves when the drawer is initially being moved toward an open position.*" However, similarly to the above discussion with respect to Budde, these statements are not correct, and essentially state mutually exclusive attributes, because of the movements of the respective components in Mitchell. First, the actuating member (26) is not inherently capable of moving faster with respect to the elongated flexible member than the driving surface of the cam member. When the drawer is initially being moved toward an open position, the relative movement of the actuation member (26) would at most be momentarily as fast as the cam driving surface, but before and after bottom-dead-center of the movement of projection (27), the movement actually would be slower, not faster.

In addition, the linear movement of the drawer and its projection or pin (32), if inherently greater than the rotational movement of the lever/cam (30), would actually cause an opposite result with respect to the relative forces from that which is stated by the examiner. The lever/cam (30), with its smaller relative movement that is translated to smaller movement of the actuating member (26), would have a greater force than the linear movement force exerted on the drawer, with its greater movement, due to the

conservation of energy and the equivalent "work" on each side of the equation that would describe the movements and forces in the system.

For the above reasons, independent claims 1 and 65 are patentable and are not anticipated or rendered obvious by Mitchell. Given that claims 2, 4-11 and 15 all depend directly or indirectly from claim 1, and add further limitations thereto, and that claims 66-72 all depend directly or indirectly from claim 65, and add further limitations thereto, all of the dependent claims also are patentable over Mitchell.

Applicant notes that newly added independent claim 73 is similar to the previously rejected independent claim 1, but importantly recites "wherein said engagement member further comprises a projection that communicates with a slot that is attached to a drawer slide member." This limitation also is in amended independent claim 65, as discussed above, and similarly distinguishes over both Budde and Mitchell which lack a slot that is attached to a drawer slide that communicates with a projection on an engagement member. Therefore, it is believed that new independent claim 73 is patentable over the prior art, and that claim 74 which depends therefrom and adds further limitations thereto also is patentable.

It is well settled that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). It is respectfully submitted that based on the amendments and remarks herein, the prior art Budde and Mitchell references fail to teach or describe all of the recited elements of independent claims 1, 65 and 73 or the significant mechanical advantage and resulting rapid take-up mechanism as discussed in the Remarks submitted in the

Response to Office Action Dated June 7, 2007, and incorporated by reference herein. Therefore, neither reference can anticipate any of the independent claims or any claims that depend therefrom. In addition, there is no suggestion in the art to combine Budde and Mitchell, or any suggestions that the structures of these references could even be combined successfully, or would then have all the limitations required by Applicant's claims. Accordingly, the pending claims are neither anticipated or rendered obvious in view of the prior art.

Conclusion

Applicant appreciates the examiner's consideration of this Response, and the updating of the application file to reflect the new Attorney Docket No. 3202-0004.

Based on the foregoing remarks, it is respectfully submitted that all of the pending claims 1, 2, 4-11, 15, and 65-74 are in condition for allowance. If the examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the examiner is invited to contact the undersigned at the number identified below.

The application still has no more than 3 independent claims and a total of no more than 20 claims. Accordingly, it is believed that while there are fees due with respect to the Request for Continued Examination and for the 1 month extension of time, no additional fees should be due for the amendments herein. Nevertheless, the Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-1039.

Please refund any overpayment to Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd. at the address below.

Respectfully submitted,

COOK ALEX
200 West Adams Street
Suite 2850
Chicago, Illinois 60606
(312) 236-8500

By: /David M. Thimmig/
David M. Thimmig
Registration No. 36,034
Attorney for the Applicant

March 20, 2008